

SOBLEN LOSES BID ON NEW SPY TRIAL

Defense Chided on 'Innuendo'
Against Government

By DAVID ANDERSON

Federal Judge William B. Herlands yesterday denied a motion for a new trial by Dr. Robert A. Soblen, the convicted Soviet spy.

The opinion, which required ninety minutes for Judge Herlands to read, charged the defense with having made a "pervasive innuendo" that the Government had "committed a hoax."

Argument on the motion by Ephraim S. London, lawyer for Soblen, contended that the Government had failed to supply the defendant's trial lawyers, Joseph Brill and Jacob Friedman, with adequate information on key witnesses. Such data, Mr. London contended, amounted to "new evidence."

Judge Herlands said there was nothing in the trial record to support the allegation the Government had "suppressed or concealed any facts," nor did it "mislead and lull the defense into inaction."

"If the defense had acted with reasonable diligence," continued Judge Herlands, "it could have presented facts which it now claims are newly discovered. A change in strategy after an unfavorable verdict is no ground for a new trial."

The court read into the public record for the first time excerpts from a Federal Bureau of Investigation interview here with Dr. Hans Emil Hirschfeld, a retired official of the West Berlin administration, on Jan. 29, 1960. It offered Dr. Hirschfeld's theory on how he became involved in this case.

He was a key figure in the prosecution of Soblen. The Government produced a witness, Mrs. Johanna Koenen Beker, a courier for a Soviet espionage ring. She testified that Dr. Hirschfeld, when he was employed by the Office of Strategic Services in 1942-43, obtained classified information that he gave to her and that she, in turn, passed on to Soblen for transmission to Moscow. Dr. Hirschfeld has denied this.

The F. B. I. report dealt with a meeting between the German and Mrs. Beker last year. It read in part:

"He [Dr. Hirschfeld] stated that the only reason that he could find for this [his involvement] was the fact that his name, along with the names of certain other German emigres, had appeared in an article in the 'Network,' a publication edited by [the late] Ruth Fischer in New York during World War II. This article described Hirschfeld as a Stalin agent."

"Beker told Hirschfeld that sometimes there were things that people did not like to remember, especially after twenty years, but sometimes it was best to remember them and to get rid of them."

Judge Herlands drew this item and others on Dr. Hirschfeld from material given to the Soblen trial defense. He said the relationship between Dr. Hirschfeld and Mrs. Beker had been "plainly disclosed" by the Government.

Dr. Hirschfeld refused to consider coming to this country to testify in a new trial unless he were granted full immunity from prosecution. The court held yesterday that even had he done so, it "cannot find that his testimony would be such as would produce acquittal in a new trial."